

STATE OF NEW YORK

DIVISION OF TAX APPEALS

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In the Matter of the Petition	:	
of	:	
<b>MARIA IVORY</b>	:	DETERMINATION
	:	DTA NO. 818516
for Redetermination of a Deficiency or for Refund of	:	
New York State and New York City Personal Income Tax	:	
under Article 22 of the Tax Law and the Administrative	:	
Code of the City of New York for the Year 1998.	:	

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Petitioner, Maria Ivory, 30 Third Avenue, Apt. 1049, Brooklyn, New York 11217-1822, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law and the Administrative Code of the City of New York for the year 1998.

A small claims hearing was held before Timothy J. Alston, Presiding Officer, at the offices of the Division of Tax Appeals, 641 Lexington Avenue, New York, New York, on April 3, 2002, at 9:15 A.M., which date began the three-month period for the issuance of this determination. Petitioner appeared *pro se*. The Division of Taxation appeared by Barbara G. Billet, Esq. (J. Tiwary).

***ISSUE***

Whether the Division of Taxation properly determined petitioner's New York State and New York City income tax liability for 1998.

***FINDINGS OF FACT***

1. On November 19, 1999, the Division of Taxation ("Division") issued to petitioner, Maria Ivory, a Notice and Demand for Payment of Tax Due which asserted additional New York

State income tax and New York City resident tax due in the total amount of \$494.00, plus penalty and interest, for the year 1998.

2. Petitioner filed her 1998 New York resident income tax return on Form IT-200. Form IT-200 is designed for taxpayers who take the standard deduction. It contains no entry for itemized deductions. Petitioner wrote \$12,744.00 in the entry "New York standard deduction." The 1998 standard deduction for a single filer such as petitioner was \$7,500.00.

3. Upon review of petitioner's return the Division adjusted petitioner's standard deduction from \$12,744.00 to \$7,500.00 and computed the resulting deficiency contained in the Notice and Demand dated November 19, 1999.

4. Petitioner subsequently filed a Form IT-201-ATT and a Federal Schedule A with the Division listing her itemized deductions for the year at issue. The IT-201-ATT reports a New York itemized deduction of \$9,140.00 for 1998.

5. The Division accepted petitioner's itemized deduction as reported and recomputed her liability accordingly. The Division now asserts additional New York State income tax and New York City resident tax due in the total amount of \$325.00, plus interest.

6. The Division has withdrawn its assertion of penalty against petitioner.

7. Throughout 1998, petitioner resided at 69 North Broadway, Suite 219, White Plains, New York. All of the income earned by petitioner in 1998 and reported on her return was earned as an employee of the State University of New York Maritime College, Bronx, New York.

8. Petitioner reported City of New York resident tax on her IT-200. As a result, the Division asserted additional resident tax due from petitioner in its recomputation of petitioner's liability. At hearing, petitioner asserted that she was not a City resident in 1998 and requested that the Division compute her liability for City income tax under the nonresident earnings tax.

Petitioner does not take issue with the adjustments made by the Division with respect to her claimed deductions; nor does she take issue with the Division's recomputation of her State income tax liability.

***CONCLUSIONS OF LAW***

A. Petitioner established at the hearing through her testimony and documentation that she was not a resident of the City of New York during 1998. Accordingly, she was not subject to the City's resident income tax (*see*, Administrative Code of the City of New York § 11-1701 *et seq.*). As a nonresident of the City, however, the wages earned by petitioner in the City (*see*, Finding of Fact "7") were subject to the City's former nonresident earnings tax as in effect during the year at issue (*see*, Administrative Code of the City of New York former § 11-1901 *et seq.*). Accordingly, the Division is directed to recompute petitioner's New York City tax liability under the City's former nonresident earnings tax as in effect during 1998.

B. The petition of Maria Ivory is granted to the extent indicated in Conclusion of Law "A." The Division of Taxation is directed to recompute the subject deficiency in accordance therewith and in accordance with Findings of Fact "5" and "6." As so modified, the Notice and Demand dated November 19, 1999 is sustained.

DATED: Troy, New York  
May 2, 2002

/s/ Timothy J. Alstson  
PRESIDING OFFICER